

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANITA B. POSEY,

Defendant-Appellant.

UNPUBLISHED

May 18, 1999

No. 207996

Eaton Circuit Court

LC No. 97-020183 FC

Before: Griffin, P.J., and Cavanagh and Fitzgerald, JJ.

MEMORANDUM.

Defendant pleaded guilty of second-degree murder, MCL 750.317; MSA 28.549, and was sentenced to a prison term of seventeen to fifty years. Defendant appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant asserts that the trial court erred in scoring offense variable 3, resulting in a disproportionate sentence. Appellate review of guidelines calculations is very limited. *People v Daniels*, 192 Mich App 658, 674; 482 NW2d 176 (1992). A sentencing judge has discretion to determine the number of points scored, provided there is evidence on the record to adequately support the particular score. *People v Dilling*, 222 Mich App 44, 54; 564 NW2d 56 (1997). A guidelines error states a cognizable claim on appeal only where the factual predicate is wholly unsupported, the factual predicate is materially false, and the sentence is disproportionate. *People v Mitchell*, 454 Mich 145, 177; 560 NW2d 600 (1997).

There was evidence in the presentence investigation report indicating that the crime was premeditated, and that defendant had attempted to hire persons to commit the murder in the past. The evidence supports a score of fifty points for OV 3, and there is no basis for ordering a resentencing. *Id.*

Affirmed.

/s/ Richard Allen Griffin

/s/ Mark J. Cavanagh

/s/ E. Thomas Fitzgerald